

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 114-126, 129-145, and 147-188 are pending in the application, with claims 114, 133, 153 and 171 being the independent claims. Claims 127 and 146 are sought to be cancelled. All remaining claims EXCEPT claims 145, 150, and 152 have been amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider and withdraw all outstanding rejections.

***Rejection under 35 U.S.C. § 101***

Claims 114 and 153 were rejected under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter. Although Applicant disagrees with the Examiner's position, the claims have been amended to clearly set forth that the claimed subject matter is directed to a computer program product comprising a computer useable medium storing computer program logic.

In light of the above amendments, Applicant respectfully traverses this rejection.

***Rejection under 35 U.S.C. § 112, first paragraph***

Claims 114, 128-131, 133, 147-150, 153, 166-169, 171, and 184-186 have been rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to satisfy the written description requirement. Although Applicant disagrees with the Examiner's position, the claims have been amended to overcome this ground of rejection.

In light of the above amendments, Applicant respectfully traverses this rejection.

***Rejections under 35 U.S.C. § 103***

Claims 114, 116-131, 133-150, and 152 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over "Qmodem-Advanced Communications Operation Manual", Version 4.0, 1989 ("Qmodem"), Microsoft Press' Computer Dictionary, 2<sup>nd</sup> Edition, 1993 ("Microsoft"), and U.S. Patent 5,630,125 to Zellweger ("Zellweger"). Applicant respectfully traverses this ground of rejection.

As noted in an earlier response, Applicant has exhausted all available methods to obtain a copy of the Qmodem reference cited by the Examiner. References to "Qmodem" therefore will be to the later version of the Qmodem specification; "Qmodem-4.6 Test-Drive", Copyright 1994, Mustang Software, Inc. ("QmodemPro"). QmodemPro includes all of the features described in Qmodem, and many additional features.

**Summary: QmodemPro and MS Windows 3.1 (103 Rejection)**

In practice, QmodemPro provides terminal emulator functions from a command line or dialog box, and full-duplex chat boxes. Command lines are transmitted using the Telnet network protocol, coded in the ASCII character set. Commands are limited to the transmission of data or text keystroke-by-keystroke (in the dialog box), or by file transfer. Additional commands transmitted from Bulletin Board Services allow minimal text mark-up, limited to font and color of the transmitted characters and background. An example of a QModem user interface screen is attached as Exhibit A.

The following web pages show a sample of chat and dialogue boxes, and BBS pages, all from ~1994.

<http://www.dans20thcenturyabandonware.com/d2ca-ssg-win1x2x3x.html>

[http://www.atarimax.com/freenet/freenet\\_material/6.16and32-BitComputersSupportArea/8.OnlineMagazines/showarticle.php?458](http://www.atarimax.com/freenet/freenet_material/6.16and32-BitComputersSupportArea/8.OnlineMagazines/showarticle.php?458)

Briefly, a terminal emulator processes discrete events (keypad entry, mouse clicks) with scripted, single command event handlers. In contrast, a graphical user interface (GUI) processes dynamic, continuous events (mouse position tracking) with programmed, dynamic event handlers (e.g. a GUI can perform a "drag and drop" function, a terminal emulator cannot).

QmodemPro specifies two distinct languages; SLIQ and RIPscrip. SLIQ is a script language that allows access to Microsoft Windows 3.1's dynamic link library (DLL), where GUI functions reside. SLIQ is compilable. SLIQ, in combination with Windows 3.1, allows for a GUI, but SLIQ is not downloadable; that is, downloadable SLIQ source code is not automatically, transparently compiled and run, nor is downloadable SLIQ executable code automatically activated.

RIPscrip is a scalable vector graphics (SVG) language that functions as a terminal emulator. RIPscrip is downloadable; that is, downloaded RIPscrip commands act on the user's terminal and respond to user input. But RIPscrip does not allow for a GUI. RIPscrip cannot be programmed to react to dynamic user input, and cannot access GUI libraries, including Windows 3.1's DLL. SLIQ, which does access Windows 3.1's DLL, does not communicate with RIPscrip.

Applicant's invention requires a downloaded web page with the necessary programming or communication for a GUI. Independent claims 114 and 133 call for a "...third computer program code...executable at the user station. . . portions of [whuch] are downloaded...in advance of their execution..."; that is, a downloadable web page with the necessary program logic to produce a executable, custom GUI from independent online services automatically at the time of the download.

QmodemPro and MS Windows 3.1 taken separately allow for a downloadable web page (RIPscrip/QmodemPro) and a GUI generated by the user (Windows 3.1) and displayed at the user's station, but neither RIPscrip nor MS Windows 3.1 provide program logic to communicate between QmodemPro and MS Windows 3.1, nor does SLIQ/QmodemPro provide the necessary program logic to communicate with RIPscrip and the downloaded web page.

In summary, SLIQ/QmodemPro is a GUI, but not downloadable. RIPscrip/QmodemPro is downloadable, but not a GUI. SLIQ and RIPscrip do not communicate. MS Windows 3.1 and RIPscrip do not communicate. Exhibit B attached hereto provides a timeline of introduction of and demonstrates the relationship between elements at issue in the QmodemPro/MS Windows 3.1 103 rejection. Therefore, QmodemPro and MS Windows 3.1 cannot be combined to form a downloadable GUI. Applicant claims a downloadable GUI in claims 114 and 133.

Communication between the downloaded web page and the windows environment appeared in Windows NT 3.5, released September 21, 1994. Java applets, introduced one year later, are compiled automatically at run-time on virtual machines, and are implemented similarly.

The QmodemPlus specification, "Qmodem - 4.6 Test-Drive", Copyright (C) 1994, Mustang Software, Inc., published November 15, 1993, and the RIPscrip specification, "RIPscrip Graphics Protocol Specification: 'Remote Imaging Protocol'", Copyright (C) 1992-1993, TeleGrafix Communications, Inc., Revision 1.54, published July 19, 1993, have been submitted previously in support of the Applicant's argument.

#### **Summary: QmodemPro, MS Windows 3.1, and Zellweger (103 Rejection)**

Zellweger does not overcome the deficiencies of QmodemPlus and RIPscrip. Zellweger provides for an Application Generator and a Retrieval module, such that "...when a graphical user interface (GUI) is available, the Application Generator and the Retrieval module use the host GUI services, or the modules generate their own menus and dialogue boxes to look like the host GUI display..." (Zellweger, column 14, lines 54-58). The Application Generator "...employs a procedural computer language..." (Zellweger, column 13, line 52), which is "...configured dynamically on the end-user's computer...to customize features for each application...", such as "...the appearance of screens and menus..." (Zellweger, column 8, lines 51-56).

Zellweger allows the user to create a GUI by accessing MS Windows dynamic link libraries (DLLs) with the Application Generator, described previously. Visual Basic 1.0, released in May, 1991, preceded Zellweger, and functioned in a similar manner. However, neither Zellweger nor Visual Basic 1.0 allowed for the creation of executable code that could access MS Windows DLLs.

As stated previously, MS Windows NT 3.5, released September 21, 1994, introduced the ability to create custom user controls, as well as the ability to compile to native Windows executable code with Object Linking and Embedding, version 2.0 (OLE 2.0), later to be renamed ActiveX. Visual Basic 5.0, released in February, 1997, was the first Visual Basic package that compiled to native Windows executable code.

Zellweger does not allow for the creation of executable code. Zellweger provides executable code, in the form of the Application Generator, which allows for creation of "...custom...screens and menus...when an end user makes a selection at an object screen..." (Zellweger, column 8, lines 53-58), where custom screens and menus are "...configured dynamically on the *end-user's computer*..." (Zellweger, column 8, lines 51-52). Applicant provides for a "...third computer program code...executable at the user station...", where "...portions of the third computer program code are *downloaded...in advance of their execution*...", as recited in amended independent claims 114 and 133.

Zellweger accesses the MS Windows DLLs with the Application Generator executable, but Zellweger does not create a new, stand-alone executable module, independent of the Application Generator, nor does Zellweger allow for an independent executable module to be downloaded from a server, as recited by Applicant in claims 114 and 133.

For at least these reasons, Applicant respectfully requests the 103 rejection of independent claims 114 and 133, and the rejection of all subsequent respective dependent claims, be reconsidered and removed.

**Summary: QmodemPro, Zellweger, and Pettus (103 Rejection)**

On page 7 of the Office Action, the Examiner rejected claims 115, 132, and 151 under 35 U.S.C. § 103(a) as being unpatentable over Qmodem in view of C.E. Pettus, "Object-Oriented Distributed Communications Directory Service", U.S. Patent No. 6,031,977, February 29, 2000 ("Pettus"), cited Prior Art, p.7. Applicant respectfully traverses.

Pettus is directed to an object-oriented distributed communications directory service. Pettus does not address custom graphical user interfaces provided by online services. Pettus thus does not cure the deficiencies of QmodemPro considered alone or in combination with Microsoft, described above. Reconsideration and withdrawal of the rejection are respectfully requested.

### ***Conclusion***

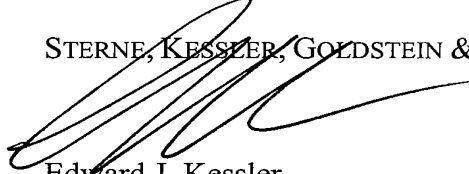
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections.

Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Edward J. Kessler  
Attorney for Applicant  
Registration No. 25,688

Date: December 20, 2007

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600

718089.v4